

Hearing Date: March 9, 2023 at 11:00 a.m. (ET)
Objection Deadline: March 2, 2023 at 5:00 p.m. (ET)

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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re: :
: :
RASHAWN R. RUSSELL :
: : Case No. 22-42185-NHL
: :
Alleged Debtor. :
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**MOTION FOR AN ORDER PURSUANT TO BANKRUPTCY RULES
4004(b) AND 4007 EXTENDING TIME TO OBJECT TO DISCHARGE
PURSUANT TO 11 U.S.C. § 727(A)(8) OR (A)(9) AND EXTENDING TIME TO FILE
COMPLAINT PURSUANT TO 11 U.S.C. 523(C) SEEKING DETERMINATION
REGARDING DISCHARGEABILITY OF DEBT OWED TO MOVANTS**

TO THE HONORABLE NANCY HERSHY LORD
UNITED STATES BANKRUPTCY JUDGE

Abdolreza Behjat (“A. Behjat”), Dara Behjat (“D. Behjat , Alexander Tynell (“Tynell”) and Evan Paskalis (“Paskalis” and collectively with A. Behjat, D. Behjat and Tynell, “Movants”), by their undersigned counsel, as and for their motion (the “Motion”) seeking entry of an order pursuant to Rules 4004(b) and 4007 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) extending the Movants’ time to object to discharge pursuant to 11 U.S.C. §§ 727(a)(8) or (a)(9) and extending Movants’ time to file complaint pursuant to 11 U.S.C. §523(c) seeking a determination regarding dischargeability of the respective debts owed to Movants through and including April 28, 2023, respectfully states as follows:

PRELIMINARY STATEMENT

Movants respectfully submit that cause exists to extend the Movants' time to object to discharge pursuant to 11 U.S.C. §§ 727(a)(8) or (a)(9) and extending Movants' time to file complaint pursuant to 11 U.S.C. §523(c) seeking a determination regarding dischargeability of the respective debts owed to Movants because the debtor, Rashawn Russell ("Debtor") has not participated in this case in any way, thereby preventing Movants and the Chapter 7 Trustee from conducting an investigation regarding the Debtor's entitlement to a discharge and regarding a determination whether the debts owed to Movants are dischargeable. Debtor has not filed his bankruptcy schedules or a statement of financial affairs. It is likely that numerous creditors of Debtor have no idea that this case was commenced because debtor has not identified his creditors. Debtor has also failed to appear on two occasions for his meeting of creditors as required by 11 U.S.C. §§ 109 and 341. The Debtor should not benefit from this case by receiving a discharge because his failure to participate in this case has thwarted his creditors' and the Chapter 7 Trustee's ability to investigate his pre-petition conduct.

BACKGROUND

1. On September 13, 2022, Movants filed an Involuntary Chapter 7 Bankruptcy Petition [Docket No. 1] (the "Involuntary Petition") against Debtor.
2. An Order for Relief was entered on October 21, 2022 [Docket No. 5].
3. On October 27, 2022, Robert J. Musso was appointed Interim Trustee and a meeting of creditors was scheduled on November 28, 2022. The meeting of creditors was adjourned to December 15, 2022 because Debtor failed to appear. The meeting was adjourned again to January 18, 2023 and again to February 15, 2023 because of Debtor's failure to appear. Movants appeared by counsel on each occasion and intended to examine Debtor.

4. The Debtor has not filed bankruptcy schedules or a statement of financial affairs and has not otherwise appeared in the case.

5. Prior to the commencement of this case, each of the Movants entered into a respective Investor Agreement with Debtor, whereby Debtor promised that Movants principal investments would be return in full along with certain guaranteed profits on their principal investments. Notwithstanding his promises, Debtor failed to return Movants' principal investments and guaranteed profits. As a result of Debtor's conduct, Movants are owed the following amounts as set forth in the Involuntary Petition:

- i. Behjat - \$287,000
- ii. D. Behjat - \$106,550
- iii. Tynell - \$40,000
- iv. Paskalis - \$12,500

6. Debtor never disputed the amounts owed to Movants.

7. As a result of Debtor's failure to file schedules and a statement of financial affairs and his failure to appear for a meeting of creditors, Movants have been severely prejudiced by not having the opportunity to investigate the circumstances surrounding Debtor's incurrence of the debts owed to Movants and have been unable to investigate whether Debtor is entitled to a general discharge and whether each of the debts owed to them are dischargeable.

8. It is respectfully submitted that Movants and the Chapter 7 Trustee should have an opportunity to conduct an investigation, or at the very least, analyze Debtor's yet to be filed schedules and statement of financial affairs prior to the expiration of the deadlines to challenge Debtor's right to a discharge and the deadline to seek a determination on the dischargeability of the debts owed to Movants.

9. Debtor should not benefit from this case by receiving a discharge without participating in any way in the case.

10. The current deadline Movants seek to extend by way of this Motion is January 27, 2023. Consequently, this Motion is timely.

11. Movants respectfully submit that cause exists to extend the deadlines as requested herein.

WHEREFORE, Movants respectfully request that the Court enter an order, substantially in the form annexed hereto as **Exhibit A** extending the deadlines through and including April 28, 2023.

Dated: New York, New York
January 27, 2023

**KLESTADT WINTERS JURELLER
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